

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONNIE CARTER,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:16-CV-323

H&M DEMOLITION
CO., INC., et al.,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff initiated this matter on March 30, 2016, against the following entities: (1) H&M Demolition Companies, Inc.; (2) City of Ludington; (3) Department of Natural Resources; (4) Michigan Department of Environmental Quality; (5) Environmental Protection Agency; and (6) Westshore Engineering & Surveying, Inc. Having granted Plaintiff's motion to proceed as a pauper, the Court has conducted an initial review of the complaint pursuant to 28 U.S.C. § 1915(e)(2) to determine whether it is frivolous, malicious, or fails to state a claim upon which relief can be granted. Having conducted this review, the undersigned recommends that Plaintiff's complaint be **dismissed**.

The present action concerns alleged wrongs committed in 1995 during the completion of certain demolition work performed at Plaintiff's request. Plaintiff has previously filed in this Court at least three previous actions alleging the same facts against the same defendants. *See Carter v. H & M Demolition Co., Inc.*, Case No. 4:04-cv-90, Dkt. #5 (W.D. Mich.). Plaintiff's claims in all of these previous actions were dismissed on the ground that subject matter jurisdiction was lacking. *See Carter v. H & M Demolition Co., Inc.*, Case No. 4:04-cv-90, Dkt. #5 (W.D. Mich.). The present complaint

asserts the same facts against the same defendants and, therefore, suffers from the same deficiency. *See Carter v. H & M Demolition Co., Inc.*, Case No. 4:03-cv-10, Dkt. #18 (W.D. Mich.). Accordingly, the undersigned recommends that the present action be dismissed.

CONCLUSION

For the reasons articulated herein, the undersigned concludes that the Court lacks jurisdiction to adjudicate this matter. Accordingly, the undersigned recommends that Plaintiff's complaint be **dismissed** pursuant to 28 U.S.C. § 1915(e)(2). The undersigned further recommends that appeal of this matter would not be taken in good faith. *See McGore v. Wigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997); 28 U.S.C. § 1915(a)(3).

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: July 26, 2016

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge